

### **REMARKS**

Claims 81-143 were pending and under consideration in the application. Claims 109, 123, and 126-143 have been cancelled without prejudice as being drawn to non-elected inventions. New claims 144 and 145 have been added. No new matter has been added by way of the amendments to the claims. Support for the new claims can be found in the claims and the specification as originally filed. Applicants reserve the right to pursue the subject matter of the cancelled claims in this or a separate application.

The Examiner has asserted that Applicants' amendment filed on September 10, 2004 was non-compliant because the "[n]onelected claims (such as 103, etc.) need to...have the identifier 'withdrawn'." Applicants submit that claim 103 is an elected claim. Applicants further submit that all nonelected claims have been cancelled, and that new claims 144 and 145 should be considered with the claims of elected Group I (see below).

### **RESPONSE TO RESTRICTION REQUIREMENT**

The Examiner has required restriction/election of the claims under 35 U.S.C. 121 to the following groups:

- I. Claims 81-108, 110-122, 124, and 125, drawn to soluble TCR and compositions thereof.
- II. Claims 126-143, drawn to nucleic acids.
- III. Claims 109 and 123, drawn to methods of making a protein.

In addition, the examiner has required election of one of the following species as it pertains to the group elected above:

A. The soluble TCR fusion protein or nucleic acid encoding said molecule that includes a molecule (or nucleic acid encoding the molecule if applicable), wherein the molecule is:

- a. An antibody, with further election of one of the species recited in claims 88-100 (or the equivalent nucleic acid if nucleic acid encoding an antibody is elected (e.g., claims 133 or 134).
- b. IL-2.
- c. IL-10.
- d. GCSF.
- e. GMCSF.
- f. A protein toxin.
- g. A chemotherapeutic agent.
- h. A detectable label.
- i. An enzyme.
- j. A radioactive compound.

B. The soluble TCR fusion protein wherein the alpha and beta chain are covalently linked or noncovalently linked.

C. The soluble TCR fusion protein not containing a carrier or the soluble TCR containing a carrier.

Applicants hereby elect **Group I, drawn to soluble TCR and compositions thereof**. Claims that read on this species include claims 81-108, 110-122, 124, and 125.

For part A of the species election, Applicants elect **species b, IL-2**. Claims that read on this species include claims 81-86, 101, 102, 110-114, 124, and 125.

For part B of the species election, Applicants elect the soluble TCR fusion protein wherein the alpha and beta chain are **covalently linked**. Claims that read on this species include claims 81-83, 85-108, 110-112, 114-122, 124, and 125.

For part C of the species election, Applicants elect the soluble TCR fusion protein **not containing a carrier**. Claims that read on this species include claims 81-108 and 124.

Applicants submit that upon the allowance of a generic claim, Applicants will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim, as provided by 37 C.F.R. § 1.141.

Applicants further submit that new process claims 144 and 145 depend from and include all of the limitations of the preceding independent product claims (claims 81 and 110, respectively). Accordingly, Applicants respectfully request that claims 144 and 145 be entered and joined with the claims of elected Group I as a matter of right, in accordance with the provisions of MPEP § 821.04.

It is believed the application in condition for immediate allowance, which action is earnestly solicited. If a telephone conversation with Applicants' agent would expedite allowance, the Examiner is invited to call the undersigned at the number listed below.

Although it is not believed that any additional fees are needed to consider this submission, the Examiner is hereby authorized to charge our deposit account no. 04-1105 should any fees, including any extension fees, be deemed necessary.

Respectfully submitted,

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